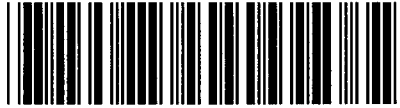


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APPLICATION OF KENDALL WEST
UTILITY, LLC FOR AUTHORITY TO
CHANGE RATES

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PUBLIC UTILITY COMMISSION
OF TEXAS
2021 JUL 2 PM 2:23
FILED IN DOCKET NO. 49887

ORDER

This Order addresses the application of Kendall West Utility, LLC for authority to change its water rates and associated tariff under certificate of convenience and necessity (CCN) number 13213. Kendall West filed an amended agreement between itself, Commission Staff, and the Office of Public Utility Counsel (OPUC). The Commission approves the agreed water rates and associated tariff for Kendall West to the extent provided in this Order.

I. Background

On August 22, 2019, Kendall West filed an application to change its retail water rates and associated tariff. On July 6, 2020, Kendall West, Commission Staff, and OPUC entered into an agreement. On September 25, 2020, a proposed order, incorporating the rates in the stipulation and settlement agreement, was filed in this docket. On October 8, 2020, a revised proposed order was filed.

At its November 5, 2020 open meeting, the Commission considered the revised proposed order and determined that additional information concerning transactions between Kendall West and its affiliates was required. Additionally, at its December 17, 2020 open meeting, the Commission determined that additional briefing concerning the proposed Cow Creek Groundwater Conservation District pass-through rate, including whether it is appropriate to recover a well-operating-permit renewal fee through a pass-through rate under the Commission's rules, was necessary.

On February 11 and 12, 2021, Kendall West, Commission Staff, and OPUC each separately filed briefing asserting that it is appropriate to recover a well operating permit renewal fee through a pass-through rate under the Commission's rules. Additionally, between March 3 and April 6, 2021, Kendall West and Commission Staff filed testimony that the payments to Kendall West's affiliates were required, reasonable, and necessary. As a result, on April 7, 2021, Kendall

West, Commission Staff, and OPUC entered into an amended stipulation and settlement agreement.

II. Discussion

The Commission requested briefing on the following issues:

Is the Cow Creek Groundwater Conservation District well-operating-permit renewal fee a production fee under 16 TAC § 24.25(b)(2)(C) and, therefore, eligible to be included as part of the proposed pass-through rate?

- a. If so, should the entire amount or should some fraction of the amount be included in the pass-through rate? Additionally, should the tariff true-up language be revised to require that, once collected in its entirety, this portion of the pass-through rate is revisited to determine whether the renewal fee is still in place and appropriate for inclusion as part of the pass-through rate?
- b. If not, should the fee amount instead be annualized and included in Kendall West's rate base?

A. Production Fee

The Commission concludes that the Cow Creek Groundwater Conservation District well-operating-permit renewal fee is a production fee under 16 TAC § 24.25(b)(2)(C) and, therefore, is eligible to be included as part of the proposed pass-through rate.

In the parties' agreement, the parties proposed a Cow Creek Groundwater Conservation District pass-through provision with a pass-through rate of \$0.07 per 1,000 gallons. As proposed, this pass-through rate would recover annually the cost of both a \$5,000 production fee and a \$2,540 well-operating-permit renewal fee. Cow Creek Groundwater Conservation District charges the production fee annually; however, an operating permit from Cow Creek Groundwater Conservation District has a term of five years and is, thus, not an annual expense.

A pass-through provision is a tariff provision that allows a utility to pass through certain third-party fees and charges directly to its ratepayers. Pass-through rates are a separate line item in a tariff, rather than a charge or cost included in the monthly, or base rates, in a tariff. The Commission's rules specify that pass-through provisions may be approved to pass through the following costs, charges, and fees:

1. purchased water or sewage treatment costs;

2. temporary water rates implemented in response to mandatory reductions in water use imposed by a court, government agency, or other authority;
3. production fees charged by groundwater conservation districts, including a production fee charged in accordance with a groundwater reduction plan entered into by a utility in response to a groundwater conservation district production order or rule; and
4. costs associated with a utility's change in water source if the change is required by a governmental entity.¹

Kendall West cannot legally produce from its well the water its uses to serve its customers without an operating permit. Consequently, the Commission agrees that the Cow Creek Groundwater Conservation District well-operating-permit fee is so closely linked with the Cow Creek Groundwater Conservation District production fee that the Commission should treat the well-operating-permit fee as an element of the production fee. The Commission also agrees that the term *production fee* should be read broadly in this case to include all reasonable costs associated with groundwater production.

B. Annualize Permit Fee

The Commission further concludes that because the Cow Creek Groundwater Conservation District well-operating-permit renewal fee is assessed every five years the fee should not be recovered annually; instead, it should be annualized as part of the pass-through rate.

As proposed, the pass-through rate would recover annually the \$2,540 well-operating-permit renewal fee. However, the operating permit from Cow Creek Groundwater Conservation District has a term of five years.

To prevent overcharging, a pass-through provision may only pass through the actual costs charged to the utility.² To properly comply with this provision, the cost of renewing the permit should be amortized over the life of the permit. Accordingly, the Commission agrees that only 1/5 of the renewal fee may be recovered under the pass-through rate annually. To reflect this decision, the pass-through rate must be lowered to \$0.054 per 1,000 gallons.

¹ 16 Tex. Admin. Code (TAC) § 24.25(b)(2)(C)(i)–(iv).

² *Id.* § 24.25(b)(2)(C).

C. Conclusion

The Commission determines that the Cow Creek Groundwater Conservation District well operating permit fee is an expense to secure the availability of water from wells within the groundwater conservation district. Therefore, it is a production fee and eligible to be recovered through a pass-through rate. The Commission further determines that, because the Cow Creek Groundwater Conservation District well operating permit fee is assessed every five years, that it should annualized as part of Kendall West's proposed pass-through provision.

III. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Kendall West is a Delaware limited liability company owned by members, John-Mark Matkin and duPerier GST Trust, and registered with the Texas secretary of state under filing number 801550367.
2. Kendall West provides retail water service to customers in Kendall County under water CCN number 13213.
3. As of May 31, 2019, Kendall West served 913 retail water connections.
4. Kendall West has a long-term water supply agreement for the provision of raw water from the Guadalupe-Blanco River Authority (GBRA). The water under that agreement is supplemented with groundwater obtained within the Cow Creek Groundwater Conservation District.

Application

5. On August 29, 2019, Kendall West filed a class B application for authority to increase water rates and revise the associated tariff for its service area in Kendall County.
6. The application is based on a historical test year that ended on May 31, 2019.
7. In the application, Kendall West requested a revenue requirement of \$2,079,126, a gallonage rate of \$7.50 per 1,000 gallons, and a rate of return of 8%.
8. On September 6 and 30, 2019, Kendall West amended and supplemented the application.

9. In Order No. 3 filed on October 7, 2019, the Commission administrative law judge (ALJ) found Kendall West's application, as amended and supplemented, administratively complete.
10. On February 7, 2020, Kendall West filed the direct testimonies and exhibits of Mr. Matkin, Kendall West's executive manager and majority owner, and Patrick W. Lindner, Kendall West's attorney, which amended and supplemented the application.
11. On February 10, 2020, Kendall West filed the direct testimony of Bret W. Fenner, P.E., which amended and supplemented the application.
12. On April 1, 2020, Kendall West filed Mr. Matkin's rebuttal testimony, which amended and supplemented the application.
13. On April 2, 2020, Kendall West filed Mr. Fenner's rebuttal testimony, which amended and supplemented the application.
14. Kendall West's application, as amended and supplemented, requested a revenue requirement of \$1,809,840. The requested revenue requirement comprised the following:

Total operating expenses	\$680,800
Depreciation	\$438,267
Taxes other than income tax	\$53,691
Income tax expense	\$115,546
Rate of return	\$550,219
Other revenues	(\$28,683)
Total revenue requirement	\$1,809,840

15. Kendall West's application, as amended and supplemented, requested the following minimum charges based on a customer's meter size:

Meter size (inches)	Requested minimum charges
5/8"	\$79.93
3/4"	\$119.90
1"	\$199.83
1 1/2"	\$399.65
2"	\$639.44
3"	\$1,198.95
4"	\$1,998.25
6"	\$3,996.50

16. Kendall West's application, as amended and supplemented, requested the following pass-through charges:

Pass-through charge	Requested charge per 1,000 gallons
GBRA ³ purchased water fee	\$0.72
GBRA water reservation fee	\$1.07
GBRA debt service fee	\$0.97
Cow Creek GCD production fee	\$0.08

Notice of the Application

17. On September 25, 2019, Kendall West sent notice of the proposed rate change by United States mail to each customer or other affected party.
18. In Order No. 3 filed on October 7, 2019, the Commission ALJ found Kendall West's proposed notice of the application sufficient.
19. On October 28, 2019, Kendall West filed the affidavit of Mr. Matkin attesting that notice had been provided on September 25, 2019.

Interventions and Protests

20. In Order No. 5 filed on November 6, 2019, the Commission ALJ granted the Office of Public Utility Counsel's (OPUC's) motion to intervene.

³ Guadalupe Blanco River Authority (GBRA).

21. In State Office of Administrative Hearings (SOAH) Order No. 2 filed on January 17, 2020, the SOAH ALJ memorialized his decision at the prehearing conference held on January 14, 2020, to grant an unopposed motion to intervene filed by ratepayer Pauline Young.
22. More than 10% of the ratepayers affected by the proposed rate increase filed protests in this docket.
23. On May 14, 2021, Ms. Young filed a motion to withdraw as an intervenor.
24. In Order No. 14 filed on May 14, 2021, the Commission ALJ granted Ms. Young's motion to withdraw as an intervenor.

Referral to SOAH

25. On November 13, 2019, the Commission referred this proceeding to SOAH.
26. On December 16, 2019, the Commission filed a preliminary order which identified the issues to be addressed in this docket.
27. In SOAH Order No. 2 filed on January 17, 2020, the SOAH ALJ set a hearing on the merits to convene at 10:00 a.m. on May 20, 2020, at SOAH's hearing facility in Austin, Texas, to continue to May 21, 2020, if needed.
28. In SOAH Order No. 5 filed on May 12, 2020, the SOAH ALJs cancelled the hearing on the merits and abated this proceeding.
29. In SOAH Order No. 6 signed on June 5 and filed on June 22, 2020, the SOAH ALJs continued the abatement.
30. In SOAH Order No. 7 filed on June 15, 2020, the SOAH ALJs adopted Kendall West's unopposed request for interim rates.
31. On July 7, 2020, Kendall West, Commission Staff, and OPUC jointly filed a stipulation and settlement agreement between themselves. Ms. Young indicated that she was unopposed to the agreement.
32. In SOAH Order No. 8 filed on July 10, 2020, the SOAH ALJs dismissed this case from SOAH's docket and remanded it to the Commission.

Testimony

33. On February 7, 2020, Kendall West filed the direct testimonies and exhibits of Mr. Matkin and Mr. Lindner. Mr. Matkin testified regarding the corporate structure and operations of Kendall West and its relationship with affiliates and other entities. In addition, Mr. Matkin testified regarding rate-case expenses of \$18,375 in engineering fees and expenses through February 7, 2020, and \$33,146.74 in legal fees and expenses through December 31, 2019. Mr. Lindner testified that Kendall West's legal fees incurred in this proceeding through December 31, 2019 were reasonable and necessary and complied with 16 Texas Administrative Code (TAC) § 24.44.
34. On February 10, 2020, Kendall West filed the direct testimony and exhibits of Mr. Fenner, who testified regarding Kendall West's cost of service.
35. On March 13, 2020, OPUC filed the direct testimony and exhibits of Chris Ekrut. Based on OPUC's recommendations, Kendall West's revenue requirement would be \$1,777,663.
36. On March 20, 2020, Commission Staff filed the direct testimonies and exhibits of Spencer English, Kathryn Eiland, Jolie Mathis, and Debi Loockerman. In these direct testimonies, Commission Staff recommended several adjustments resulting in a revenue requirement of \$1,588,005 and a rate of return of 7.15%.
37. On April 1, 2020, Kendall West filed the rebuttal testimony and exhibits of Mr. Matkin.
38. On April 2, 2020, Kendall West filed the rebuttal testimony and exhibits of Mr. Fenner.
39. On July 7, 2020, Commission Staff filed supplemental testimony of Ms. Eiland in support of the parties' agreement.
40. On July 7, 2020, Kendall West filed the supplemental testimony of Mr. Fenner in support of the parties' agreement.

Remand to Docket Management

41. In a motion for exception filed on October 13, 2020, Ms. Young indicated that she was opposed to the agreement.
42. The Commission considered the agreement at its November 5 and December 17, 2020 open meetings.

43. As a result of the Commission's discussions of this matter, on December 17, 2020, the Commission filed an order remanding this proceeding to the Office of Policy and Docket Management to allow the parties an opportunity to provide additional information to address the requirements of the Texas Water Code and Commission rules related to payments to affiliated interests and whether it was necessary to remove such payments from Kendall West's revenue requirement; the deficiencies in the proposed tariff related to the pass-through rates; and whether it is appropriate to recover a well-operating-permit renewal fee through a pass-through rate under the Commission's rules.

Supplemental Testimony and Briefing

44. On February 11 and 12, 2021, Kendall West, OPUC, and Commission Staff each separately filed briefs asserting that a well-operating-permit renewal fee under the Commission's rules.
45. On March 3, 2021, Kendall West filed the supplemental testimony of Mr. Fenner addressing payments to affiliated interests and the agreed pass-through rates.
46. On March 4, 2021, Kendall West filed the workpapers to Mr. Fenner's supplemental testimony.
47. On March 8, 2021, Kendall West filed errata to Mr. Fenner's supplemental testimony.
48. On March 12, 2021, Ms. Young filed direct testimony addressing payments to affiliated interests.
49. On March 24, 2021, Commission Staff filed the supplemental testimony and workpapers of Ms. Eiland, addressing affiliated interests and the agreed pass-through rates, and the supplemental testimony of Roshan Pokhrel, addressing payments to affiliated interests.

Evidentiary Record

50. In SOAH Order No. 8 filed on July 10, 2020, the SOAH ALJs admitted the following evidence into the record: (a) Kendall West's application for authority to change rates filed on August 29, 2019; (b) Kendall West's supplement to the application filed on September 30, 2019; (c) Kendall West's proof of notice filed on October 28, 2019; (d) Kendall West's proof of notice of prehearing conference filed on December 30, 2019; (e) the direct testimonies of Mr. Matkin and Mr. Lindner, including all attachments, filed

on February 7, 2020; (f) the direct testimony of Mr. Fenner, including all attachments, filed on February 10, 2020; (g) the direct testimony of Mr. Ekrut, including all attachments, filed on March 13, 2020; (h) the direct testimonies of Mr. English, Ms. Eiland, Ms. Mathis, and Ms. Loockerman, including all attachments, filed on March 20, 2020; (i) the rebuttal testimonies of Mr. Matkin and Mr. Fenner, including all attachments, filed on April 1 and 2, 2020, respectively; (j) the agreement, including exhibits A through D, filed on July 7, 2020; (k) the testimony of Ms. Eiland in support of the agreement, including all attachments, filed on July 7, 2020; and (l) the testimony of Mr. Fenner in support of the agreement, including all attachments, filed on July 7, 2020.

51. In Order No. 13 filed on May 14, 2021, the Commission ALJ admitted the following evidence into the record: (a) Kendall West's responses to Commission Staff's seventh request for information filed on December 30, 2020; (b) the supplemental testimony of Mr. Fenner including all exhibits, filed on March 3, 2021; (c) the workpapers to the supplemental testimony of Mr. Fenner filed on March 4, 2021; (d) the errata to the supplemental testimony of Mr. Fenner filed on March 8, 2021; (e) the direct testimony of Ms. Young filed on March 12, 2021; (f) Kendall West's response to Commission Staff's first set of informal discovery filed on March 12, 2021; (g) Kendall West's response to Commission Staff's second set of informal discovery filed on March 18, 2021; (h) the supplemental testimony and workpapers of Ms. Eiland filed on March 24, 2021; (i) the supplemental testimony of Ms. Pokhrel filed on March 24, 2021; (j) Kendall West's response to Commission Staff's third set of informal discovery filed on April 6, 2021; (k) the amended agreement filed on April 7, 2021; (l) the corrected tariff attached as exhibit B to the agreed supplemental motion to admit evidence and revised proposed order filed on April 23, 2021; and (m) the affidavit of Carla Carter, Kendall West's office manager, filed on May 10, 2021.

The Amended Stipulation and Settlement Agreement

52. On April 7, 2021, Kendall West, Commission Staff, and OPUC jointly filed an amended non-unanimous stipulation and settlement agreement between themselves. Ms. Young indicated that she was opposed to the agreement.

Revenue Requirement, Rates, and Pass-Through Charges

53. The parties to the amended agreement, Kendall West, OPUC, and Commission Staff (the signatories) agreed to an annual revenue requirement of \$1,706,676 for Kendall West's water CCN number 13213.
54. The signatories agree that Kendall West must charge the rates shown in the corrected tariff for CCN number 13213 attached as exhibit B to the settling parties' agreed supplemental motion to admit evidence and revised proposed order filed on April 23, 2021 (the corrected tariff).
55. The signatories agree that Kendall West must charge the agreed minimum charges based on a customer's meter size as follows:

Meter size (inches)	Agreed minimum charges
5/8"	\$72.00
3/4"	\$108.00
1"	\$180.00
1 1/2"	\$360.00
2"	\$576.00
3"	\$1,080.00
4"	\$1,800.00
6"	\$3,600.00

56. The signatories agree that Kendall West must charge an agreed monthly gallonage fee of \$7.50 per 1,000 gallons.
57. The signatories agree to four pass-through charges related to Kendall West's water supplies. The signatories also agree that each of the pass-through charges be subject to an annual true-up. Until the annual true-up, the signatories agree that the appropriate pass-through charges are as follows:

Pass-through charge	Agreed charge per 1,000 gallons
GBRA purchased water fee	\$0.63
GBRA water reservation fee	\$1.07
GBRA debt service fee	\$0.97
Cow Creek GCD production fee	\$0.07

58. The signatories agree that the annual true-up report for pass-through charges must be filed with the Commission by July 1 of each year, with the first report being due July 1, 2021, and including the year beginning June 1, 2020.

Payments to Affiliated Interests

59. During the test year, Kendall West made payments to J-M Matkin & Associates, Ltd. (Matkin-Hoover Engineering, Inc.), J-M Matkin Surveying Company, LP, M5 Utilities, LLC, and Matkin Properties, LLC, entities in which John-Mark Matkin owns an interest that ranges from 55% to 100%.
60. The affiliate costs included in the rates agreed to by the signatories are reasonable and necessary.
61. To the extent that payments to affiliated interests are included in the rates agreed to by the signatories, the prices charged to Kendall West are not higher than the prices charged by the supplying affiliate to its other affiliates or divisions for the same item or to unaffiliated persons or corporations.
62. The signatories agree that no later than January 31 of each year, Kendall West will file a report detailing each transaction with an affiliate made during the prior 12 months. This filing requirement will remain in effect until Kendall West files its next application for authority to change rates.
63. The signatories agreed that, within 90 days of the date of the Commission's final order setting the rates in this docket, Kendall West will execute and file with the Commission a written agreement for service with each entity with whom Kendall West transacts business in which Mr. Matkin owns more than a 50% interest.

Rate Base

64. The signatories agree that as of May 31, 2019, Kendall West's rate base for water CCN number 13213 is \$6,527,289, including \$15,376,285 of net plant in service, \$286,087 of accumulated deferred federal income taxes, and \$71,245 of excess accumulated deferred federal income tax, as shown in exhibits C and D to the amended agreement.
65. The components of Kendall West's net plant in service as shown in exhibit C are reasonable and necessary.

66. The signatories agree to a weighted average cost of capital of 7.15%.
67. It is appropriate for Kendall West to use the agreed weighted average cost of capital of 7.15%.

Rate-Case Expenses

68. The signatories agree that Kendall West may collect rate-case expenses in the amount of \$226,779 through a surcharge of \$5.17 per connection per month over a period of 48 consecutive months or until the full amount has been recovered. The signatories also agree that Kendall West may not seek to recover any additional rate-case expenses incurred in connection with this application in a future proceeding.
69. The agreed rate-case expenses in the amount of \$226,779 are reasonable and necessary.
70. The amended agreement's treatment of rate-case expenses is appropriate.

Agreed Tariff Provisions

71. The signatories agree to the tariff provisions set forth in the corrected tariff.
72. The rates, terms, and conditions of the tariff resulting from the agreement are just and reasonable.

Interim Rates

73. In SOAH Order No. 7 filed on June 15, 2020, the SOAH ALJs approved interim rates for Kendall West, effective for usage on and after June 1, 2020, subject to refund or surcharge to the extent the rates differ from those ultimately established by the Commission. The request for interim rates was unopposed.
74. On June 25, 2020, Commission Staff filed a clean copy of the tariff reflecting the approved interim rates.
75. On July 7, 2020, Kendall West filed the affidavit Ms. Carter testifying that Kendall West included the language required in 16 TAC § 24.37(j) on retail water customer invoices for billings for usage on or after June 1, 2020. Ms. Carter further attested that Kendall West also mailed a copy of SOAH Order No. 7 with the language required in 16 TAC § 24.37(j) printed on the order to its retail water customers on or about July 3, 2020.
76. In Order No. 12 filed on April 26, 2021, the Commission ALJ approved an amended interim rate for the pass-through fee that Kendall West charges for the Cow Creek

Groundwater Conservation District, reducing the interim pass-through fee from \$0.08 per 1,000 gallons to \$0.07 per 1,000 gallons, effective for usage on and after April 1, 2021, subject to refund or surcharge to the extent the rates differ from those ultimately established by the Commission.

77. On May 10, 2021, Kendall West filed the affidavit Ms. Carter, testifying that Kendall West included the language required in 16 TAC § 24.37(j) on retail water customer invoices for billing for usage on or after April 1, 2021.

Changes to the Corrected Tariff and Interim Rates

78. At its June 24, 2021 open meeting, the Commission determined that the Cow Creek Groundwater Conservation District well operating permit fee is assessed every five years and, therefore, 1/5 of the fee must be recovered annually as part of the production fee pass-through rate. As a result of this determination, the Commission revised the Cow Creek Groundwater Conservation District production fee pass-through rate in the corrected tariff must be revised from \$0.08 per 1,000 gallons to \$0.054 per 1,000 gallons.
79. At its June 24, 2021 open meeting, the Commission further determined the following changes must be made to the pass-through provision true-up clause on page 3b of the corrected tariff:
- a. The following sentence must be added to the clause: “The provisions of this clause apply unless otherwise superseded by an order or rule of the Public Utility Commission of Texas.”
 - b. The third sentence of the clause must be revised to more clearly state that Kendall West must true-up any over- or under-collections of pass-through revenues against its actual payments to Guadalupe-Blanco River Authority or Cow Creek Groundwater Conservation District during each true-up period.
80. The current interim rates are not identical to the agreed rates and the rates approved in this Order. Any refund or surcharge due as a result of the difference between the interim rates approved in SOAH Order No. 7 or Order No. 12 and the rates approved by this Order, must be addressed in the form of customer credits in Kendall West’s July 1, 2021 pass-through rate true-up proceeding.

Effective Date

81. In the application, Kendall West proposed an effective date of November 1, 2019, for the rate change.
82. In Order No. 3 filed on October 7, 2019, the Commission ALJ suspended the effective date of the rate change for no more than 265 days from the effective date of the notice.
83. In SOAH Order No. 3 filed on April 20, 2020, the SOAH ALJ clarified that the 265-day suspension of the proposed effective date would end on July 23, 2020.

Informal Disposition

84. More than 15 days have passed since the completion of notice provided in this docket.
85. Kendall West, Commission Staff, and OPUC are the only remaining parties to this proceeding.
86. No hearing is needed in this proceeding.
87. Commission Staff recommended approval of the application.
88. This decision is not adverse to any party to this proceeding.

IV. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over Kendall West's application for a water rate increase under TWC §§ 13.041 and 13.181.
2. Kendall West is a utility, public utility, and water utility as those terms are defined in TWC § 13.002(23) and 16 TAC § 24.3(39).
3. Kendall West is a retail public utility as that term is defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
4. At the time Kendall West filed its application, it was a class B utility as defined in former TWC § 13.002(4-b) and 16 TAC § 24.3(16).
5. Kendall West gave proper notice of the application in accordance with the requirements of TWC § 13.1871 and 16 TAC § 24.27.

6. Kendall West gave proper notice of its interim rates in accordance with the requirements of 16 TAC § 24.37(j).
7. The establishment of interim rates does not preclude the Commission from establishing, as a final rate, a different rate than the interim rate in accordance with 16 TAC § 24.37(g).
8. Kendall West must refund or credit against future bills all sums collected in excess of the rates approved by this Order in accordance with 16 TAC § 24.37(h).
9. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,⁴ and Commission rules.
10. Kendall West met its burden of proof under TWC § 13.184(c) and 16 TAC § 24.12 to show that the rates approved in this Order are just and reasonable.
11. The rates approved in this Order are just and reasonable as required by TWC § 13.182(a).
12. In accordance with TWC § 13.182(b), the rates approved in this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customers.
13. In accordance with TWC § 13.183(a), the rates approved in this Order will preserve the financial integrity of Kendall West and will permit Kendall West a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses.
14. The affiliate payments included in the rates approved in this Order are reasonable and necessary, as required by TWC § 13.185(e) and 16 TAC § 24.41(b).
15. As required by TWC § 13.185(h), the rates approved in this Order do not include legislative advocacy expenses, the costs of processing a refund or credit, or any expenditure that is unreasonable, unnecessary, or not in the public interest.
16. An overall rate of return of 7.15% will not yield Kendall West more than a fair return on the invested capital used and useful in rendering service in accordance with TWC § 13.184(a) and 16 TAC § 24.41(c)(1).

⁴ Tex. Gov't Code §§ 2001.001–.903.

17. In accordance with TWC § 13.185 and 16 TAC § 24.41(c)(2)(A), the rates approved in this Order are based on original cost, less depreciation, of property used and useful in Kendall West's provision of service.
18. The rates approved in this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
19. A renewal fee for a well permit must be recovered over the life of the permit to comply with 16 TAC § 24.25(b)(2)(C).
20. The amount of rate-case expenses approved in this Order is reasonable and necessary as required by 16 TAC § 24.44(a).
21. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

V. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves Kendall West's change in water rates, as modified by the amended agreement, to the extent provided in this Order.
2. The Commission approves the corrected tariff as modified by this Order, including its rates, pass-through charges (until the annual true-up of those charges), terms, and conditions included in the corrected tariff. The approved tariff is effective the first day of the month following the date this Order is signed.
3. The corrected tariff must be revised to change the Cow Creek Groundwater Conservation District pass-through rate to \$0.054 per 1,000 gallons.
4. The following changes must be made to the pass-through provision true-up clause on page 3b of the corrected tariff.
 - a. The following sentence must be added: "The provisions of this clause apply unless otherwise superseded by an order or rule of the Public Utility Commission of Texas."

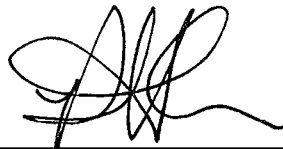
- b. The third sentence of the clause must be revised to more clearly state that Kendall West must true-up any over- or under-collections of pass-through revenues against its actual payments to Guadalupe-Blanco River Authority or Cow Creek Groundwater Conservation District during each true-up period.
5. Kendall West must true up the pass-through rates annually. Kendall West must file an application for a pass-through rate change annually by July 1 each year, with the first application being due July 1, 2021, and include the year beginning June 1, 2020.
6. The Commission authorizes Kendall West to collect rate-case expenses of \$226,779 over a period not to exceed 48 consecutive months through a surcharge \$5.17 per connection per month. Kendall West may recover no more than \$226,779 through the surcharge. Kendall West must not seek to recover any additional rate-case expenses incurred in this proceeding in a future proceeding.
7. Not later than January 31 of each year, Kendall West must file a report detailing each transaction made during the prior calendar year with any entity in which Mr. Matkin holds more than a 50% ownership interest. Kendall West must continue to file annually until it files its next application for authority to change rates.
8. Within 90 days of the date of this Order, Kendall West must execute and file, with the Commission, a written agreement for service with each entity with whom Kendall West transacts business and in which Mr. Matkin holds more than a 50% ownership interest.
9. Kendall West must implement the surcharge for rate-case expenses and file the annual report described in ordering paragraph 7 and the written agreements described in ordering paragraph 8 in Docket No. 51364, *Compliance Filing for Docket No. 49887 (Application of Kendall West Utility, LLC for Authority to Change Rates)*.
10. Kendall West must address any over-collection of revenues from the interim rates approved in SOAH Order No. 7 and the revised interim rate approved in Order No. 12 in the form of customer credits in its July 1, 2021 pass-through rate true-up proceeding.
11. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the amended agreement and must not be

regarded as precedential as to the appropriateness of any principle or methodology underlying the amended agreement.

12. Within ten days of the date of this Order, Commission Staff must file a clean copy of Kendall West's corrected tariff, modified to comply with this Order, with Central Records to be marked *Approved* and kept in the Commission's tariff book.
13. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 1st day of July 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER